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An Overview of the Every Student Succeeds Act

By Charles J Russo, J.D., Ed.D.

The Every Student Succeeds Act may dramatically change education in some districts. Here are the highlights in a nutshell.

Controversial since becoming law in 2002 as the reauthorization of the 1965 Elementary and Secondary Education Act, the No Child Left Behind Act (NCLB) has been portrayed by critics as federal overreach in education, even as supporters viewed the bill as a necessary reform to improve the academic performance of students in K–12 schools. Regardless, NCLB proved so unwieldy that 43 states and the District of Columbia received waivers from many of its accountability provisions in return for adopting policies favored by the U.S. Department of Education (Layton 2015).

The recent seven-year-overdue reauthorization of the law received widespread bipartisan support in Congress (Korte 2015). The updated NCLB, now the Every Student Succeeds Act (Sec. 1, ESSA),¹ came into effect when President Obama signed it into law on December 10, 2015 (Sec. 1).

In light of the impact that ESSA is likely to have on school business officials, their boards, and other education leaders, the remainder of this article provides an overview of its key substantive features and rounds out with a brief conclusion. As important as financial issues are for school business officials, this column does not review the many provisions on funding, because insofar as those amounts are typically treated as goals rather than as guarantees, they are subject to revision.

The Every Student Succeeds Act

ESSA contains nine titles rather than the nine subchapters included in NCLB. Moreover, ESSA retains many of the original provisions

¹ Citations to the ESSA are to S. 177, the Senate version of the bill signed into law by the president because the bill has yet to be placed in its final codified version in the United States Code, the official source of federal statutes.

of NCLB, which are discussed below as they appear in the new education law.

TITLE I

Title I of ESSA, “Improving Basic Programs Operated by State and Local Educational Agencies” (LEAs), formerly the “Academic Achievement of the Disadvantaged” title, is the most well-known and far-reaching part of the Elementary and Secondary Education Act. Title I directs LEAs (typically school boards) that receive federal financial assistance to improve academic achievement among students whose families are economically disadvantaged.

ESSA’s Title I has six major parts:

- Part A, “Improving Basic Programs Operated by State and Local Educational Agencies,” delineates the key services it provides.
- Part B covers “State Assessment Grants.”
- Part C deals with “Education of Migratory Children.”
- Part D focuses on “Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk.”
- Part E addresses “Flexibility for Equitable Per-Pupil Funding.”
- Part F, “General Provisions,” largely contains boilerplate language, reviewing such matters as definitions, flexibility in using administrative and other funds, and uniform provisions, including such topics as the status of students and teachers in nonpublic schools.

A key element at the heart of Title I, namely Part A’s accountability provisions, takes effect starting with school year 2017–18 (Sec. 5[a]). At that time, states must have meaningful differentiations and methodologies in place to identify schools in need of comprehensive support and improvement, including not less than 5% of the

lowest-performing schools receiving Title I assistance, all public high schools failing to graduate 66.9% or more of their students, and additional schools at the discretion of state officials (Sec. 1111[c][4][D]).

As for general student populations and test participation rates, ESSA requires educators to assess “not less than 95 percent of all students, and 95 percent of all students in each subgroup” (Sec. 1111[c][4][E]), requiring them to take statewide examinations in mathematics and reading or language arts in grades 3 to 8 and at least once in grades 9 to 12 (Sec. 1111[b][2][B][v][I]). In science, students must be tested not less than once during grades 3 to 5, 6 to 9, and 10 to 12 (Sec. 1111 [b][2][B][v][II]). Students can be tested in other subjects at the discretion of state officials but are required to follow the same assessment requirements as under NCLB (Sec. 1111 [b][2][B][v][III]).

ESSA’s Title I assessment provisions grant state officials greater flexibility by limiting the amount of time students spend taking tests and by reducing the impact of high-stakes testing on schools in which children underperform. Moreover, without naming them explicitly, ESSA permits state officials to replace statewide high school standardized measures with such examinations as the American College Test or Scholastic Aptitude Test (Sec. 1204[c][2][B][v]), as it eliminates the law’s adequate yearly progress provisions. Instead, ESSA allows states to create their own comprehensive assessment systems (Sec. 1111[c]), letting school boards and other LEAs use graduation rates in evaluating student performances rather than relying solely on standardized testing.

ESSA modifies testing requirements for students with disabilities as well. Now, no more than 1% of students with the most significant cognitive disabilities can be tested via alternative measures (Sec. 1111[b][2][D][i][I]).

A third area of assessment deals with students who are now referred to as English learners (ELs), rather than English-language learners (ELLs), provisions formerly contained in Subchapter, now Title, III (Sec. 1111[b][2][G][3][A]). This provision also mandates testing for ELs after they have been in the United States for a year. For ELs, states have two choices:

- EL scores are included after students have been in the country for one year (like under NCLB).
- First year: EL test scores aren’t counted toward a school’s rating, but ELs must take math and reading tests and districts must report results. Second year: States must incorporate EL test results for math and reading, using a growth metric. Third year: ELs’ test scores are treated like other students’ scores.

A final significant change in Title I involves the Common Core State Standards. Debate swirled around the Common Core, with supporters viewing it as a plan to implement high-quality academic standards in mathematics plus English-language arts and literacy and critics rejecting it as a national curriculum usurping power from states (Kurtz 2015). The upshot is that ESSA now explicitly forbids the federal government from requiring states to adopt the Common Core as a condition of receiving financial aid (Sec. 1111[j][1]). States must still have challenging academic standards, but they do not have to be Common Core—they may be something similar with a different name, or something new entirely so long as the standards are aligned with real-world demand to prepare students for college or careers.

TITLE II

Title II, “Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders” (Sec. 2000 *et seq.*), which speaks for itself, is all but the same as it was under NCLB; only the last four

words were added to its heading. Consistent with NCLB, the goal of Title II is to have states reform teacher, principal, or other school leader certification requirements while improving subject-matter knowledge and teaching skills among teachers. PreK training and development are covered here too, and many K–12 staff members, educators, and administrators don’t have PreK training, so that is another important aspect of this title.

In a significant change of terminology, Title II no longer employs the term “highly qualified teachers” (HQTs). HQTs were educators with bachelor’s degrees, state certification, and a demonstrated content knowledge. In its place, ESSA requires that “teachers and para-professionals working in a program supported with funds under this part meet applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification” (Sec. 1111[g][2][J]). In a related change found in Title IX, special-education teachers are also no longer referred to as HQTs and must meet requirements similar to those for regular educators (Sec. 9214[d][2]).

In addition, ESSA eliminates a federal mandate linking teacher evaluations to student performance on statewide tests. Almost as soon as ESSA became law, at least three states—New York, Oklahoma, and South Carolina (which are likely to be followed by other jurisdictions)—examined their teacher evaluation laws with an eye toward change (Sawchuk 2016).

Two of Title II’s innovative programs addressing different curricular dimensions merit brief review. The first is the Presidential and Congressional Academies for American History and Civics (Sec. 2232). “Presidential academies” are designed to offer professional development opportunities for teaching history and civics, whereas their

congressional counterpart aims to help high school juniors and seniors. The second, the STEM (science, technology, engineering, and math) Master Teacher Corps program provides funding to prepare education leaders in this important area (Sec. 2245).

TITLE III

Title III, “Language Instruction for English Learners and Immigrant Students” (Sec. 3001 *et seq.*) obligates education officials to provide improved language instruction for children in need of such assistance. To better serve those children, ESSA now requires that “all students who may be English learners are [to be] assessed for such status within 30 days of enrollment in a school” (Sec. 3303[b][1][A]).

TITLE IV

Title IV, “21st Century Schools,” incorporates a good deal of NCLB’s Subchapter V, “Promoting Informed Parental Choice and Innovative Programs.” Following introductory material, this title is divided into six parts. Part A, “Student Support and Academic Enrichment Grants,” funds initiatives such as “well-rounded educational opportunities” (Sec. 4107), “safe and healthy students” (Sec. 4108), and the “effective use of technology” (Sec. 4109). Part B deals with “21st Century Community Learning Centers.” Part C covers “Expanding Opportunity through Quality Charter Schools.” Part D provides “Magnet Schools Assistance.”

Part E, “Family Engagement in Education Programs,” calls for parent education and family engagement aided by public and private agencies (Sec. 4501[a][1]–[2]). Part F, “National Activities,” includes programming for arts education for children who are disadvantaged as well as for those with disabilities (Sec. 4642), ready-to-learn programming to take advantage of the reach of public television to help students

who are disadvantaged prepare for school (Sec. 4243), and the needs of children who are gifted and talented (Sec. 4644).

TITLE V

Title V, “State Innovation and Local Flexibility” (Sec. 5101 *et seq.*), was Subchapter VI, “Flexibility and Accountability,” in NCLB. This title contains five parts, two of which contain general provisions, whereas the remaining three address funding transferability for state and LEAs, the rural education initiative, and reviews relating to rural LEAs.

TITLE VI

Title VI, formerly NCLB Subchapter VII but with the same name, “Indian, Native Hawaiian, and Alaska Native Education” (Sec. 6001 *et seq.*), provides grants to support the educational efforts of states, LEAs, and postsecondary educational institutions intended to serve the aforementioned populations.

TITLE VII

Title VII, “Impact Aid” (Sec. 7001 *et seq.*), which was Subchapter VIII under NCLB, strengthens programs offering financial aid to school boards and other LEAs addressing substantial and continuing financial burdens because the federal government acquired real property. This section offers resources to states to provide quality educational programming for children who live on, and whose parents are employed on, federal property; whose parents are in the military and live in low-rent housing; who are part of heavy concentrations of children whose parents are federal employees but do not live on federal property; whose schools undergo sudden and substantial increases or decreases in enrollments due to military realignments; or who need special help with capital expenditures for construction projects.

TITLE VIII

Title VIII, “General Provisions” (Sec. 8001 *et seq.*), previously

Subchapter IX of NCLB, is divided into 42 sections. Perhaps the most noteworthy provision in those sections, which can be considered boilerplate, is a fairly lengthy definition of a “well-rounded education”:

... courses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or local educational agency, [to] provid[e] all students access to an enriched curriculum and educational experience. (Sec. 8002[53])

TITLE IX

New to ESSA, Title IX, “Education for the Homeless and Other Laws” (Sec. 9001 *et seq.*), consists of two primary parts. Part A’s “Homeless Children and Youths” section is self-explanatory. Part B covers miscellaneous and other laws, the most significant of which may be on the creation of preschool programs by recodifying existing language while preserving its present funding level (Sec. 9212[a][1][A]).

Conclusion

It certainly bears watching to see whether ESSA is implemented more successfully than its predecessor, NCLB. As such, it is important for education leaders to become aware of the potentially far-reaching provisions of the new education law so they will be best able to meet the needs of their students and school communities upon its implementation.

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The Tennessee Board of Education establishes a BEP Review Committee that meets each year to recommend revisions, additions, and deletions to the formula. The group also reviews an analysis of salary disparity. The report is passed on to the commissioners of education and finance, the governor, the state board of education, and the legislature.

Equity and Adequacy

As in other states, the discussion of equity and adequacy in funding education rages. In no Tennessee school district is funding calculated in the Basic Education Plan a sufficient amount to operate a school system. All districts contribute additional funds to staff and operate their system. If the fiscal capacity indexes are used for distribution, one-time funds (i.e., technology or school security) allocated by the legislature can become an unfunded

mandate for a district with a high fiscal capacity.

In January 2014, Governor Bill Haslam announced the formation of a 12-member task force to review the Basic Education Plan. Tennessee joins the other states in discussing how to adequately and equitably fund public education and optimize the educational opportunities for students.

Resources

2014-15 BEP Blue Book—Tennessee Basic Education Program BEP 2.0. Tennessee Department of Education.

Tennessee Basic Education Program 2.0 Handbook for Computation Revised 2014. Tennessee Department of Education. https://www.tn.gov/assets/entities/sbe/attachments/BEP_Blue_Book_FY15.pdf

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